

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LESLIE CHARLES MINNICH,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	No. 99-CV-5915
	:	
HADCO CORPORATION and GENLYTE	:	
THOMAS GROUP LLC as successor-	:	
in-interest to THE GENLYTE GROUP,	:	
INCORPORATED,	:	
Defendants.	:	

MEMORANDUM

GREEN, S.J.

February , 2001

Presently before the court is Defendant Genlyte Thomas Group LLC's Motion for Summary Judgment, Plaintiff's Response, Defendant's Reply, and Plaintiff's Surreply. For the reasons set forth below, Defendant Genlyte's motion will be denied.

I. FACTUAL BACKGROUND

Plaintiff, Leslie Charles Minnich, was born on May 1, 1942 and is currently 58 years of age. (See Compl. ¶12; Pl.'s Resp. at 2.) On July 7, 1987, Plaintiff was hired as Director of Manufacturing for the Hadco Division of Defendant Genlyte Thomas Group LLC ("Defendant Genlyte"). (Compl. ¶13; Pl.'s Dep. at 22:8.) Shortly thereafter, Plaintiff was promoted to Director of Operations. (See Compl. ¶13; Answer ¶13.) While employed, Plaintiff's performance was considered acceptable or above average. (See Musselman's Dep. at 42:20-46:3.) On January 7, 1997, Dennis Musselman ("Musselman"), General Manager of Hadco Division, informed Plaintiff that his employment was terminated. (See Musselman's Dep. at 85:7.) Musselman told Plaintiff that his job was "eliminated" as part of a restructuring of the

company's manufacturing division. (See Musselman's Dep. at 85:13.) In August of 1997, the Director of Operations position was recreated and assigned to Michael Anthony Moyer, a 36 year old employee of the Hadco Division. (See Musselman's Dep. at 169:5-169:16; 176:14.)

Plaintiff filed the instant Complaint against Defendants, "Hadco Corporation and Genlyte Thomas Group LLC," alleging age discrimination under the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621 et seq. ("ADEA"). Plaintiff alleges that he was terminated because of his age and replaced by a younger, less qualified employee. (Compl. ¶16; ¶19.) Defendant Genlyte filed a motion for summary judgment to which Plaintiff responded. Defendant Genlyte then filed a reply and Plaintiff filed a surreply.

II. DISCUSSION

Summary judgment shall be awarded "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). A dispute regarding a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Once the moving party has carried the initial burden of showing that no genuine issue of material fact exists, the non-moving party cannot rely on conclusory allegations in its pleadings or in memoranda and briefs to establish a genuine issue of material fact. Pastore v. Bell Telephone Co. of Pa., 24 F.3d 508, 511 (3d Cir. 1994). The nonmoving party, instead, must establish the existence of every element essential to his case, based on the affidavits or by the depositions and admissions on file. Id. (citing Harter v. GAF Corp., 967 F.2d 846, 852 (3d Cir. 1992)); see also Fed. R. Civ. P. 56(e). The evidence presented

must be viewed in the light most favorable to the non-moving party. Lang v. New York Life Ins. Co., 721 F.2d 118, 119 (3d Cir. 1983).

To prove a prima facie case of age discrimination, the plaintiff must show that: (1) he was a member of a protected class, i.e., above 40 years of age; (2) he was qualified for the position; (3) he was discharged or suffered an adverse employment action; and (4) he was replaced by a sufficiently younger person to create an inference of age discrimination, or if the discharged employee's position has been eliminated and the employee is not replaced, that other similarly situated employees not in the protected class were retained. Showalter v. University of Pittsburgh, 190 F.3d 231, 234 (3d Cir. 1999).

Once the plaintiff has established a prima facie case, the defendant has the burden to produce a "legitimate, non-discriminatory reason" for its action. Texas Dep't of Community Affairs v. Burdine, 450 U.S. 248, 254 (1981). After the defendant has satisfied its burden, the plaintiff may prove that the reasons offered by the defendant were not its true reasons but, rather, a pretext for discrimination. See id. at 253. To successfully discredit the defendant's proffered reasons, a plaintiff must show "weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the [defendant's] proffered legitimate reasons such that a reasonable fact finder could rationally find them 'unworthy of credence.'" Keller v. Orix Credit Alliance, 130 F.3d 1101, 1109 (3d Cir. 1997) (quoting Fuentes v. Perskie, 32 F.3d 759, 765 (3d Cir. 1994)).

For purposes of the present motion, Defendant Genlyte concedes that Plaintiff has asserted a prima facie case of age discrimination regarding his termination. Defendant Genlyte moves for summary judgment on grounds that Plaintiff's employment was terminated for legitimate, nondiscriminatory reasons which Plaintiff fails to adequately rebut. Defendant

Genlyte states that Plaintiff was terminated “due to his unwillingness to support substantial business decisions to relocate production and his negative attitude toward those decisions and his direct supervisor, Dennis Musselman.”¹ (Def. Genlyte’s Mem. Supp. Summ. J. at 8.)

Plaintiff challenges Defendant Genlyte’s proffered reasons for terminating Plaintiff as untrustworthy. To support his argument, Plaintiff offers the deposition testimony of his direct supervisor, Dennis Musselman. (See Pl.’s Resp., Ex. 1.) Musselman states that he informed Plaintiff that Plaintiff’s job was eliminated due to a restructuring. (See Musselman’s Dep. at 85:13.) Musselman acknowledges that he never warned Plaintiff that Plaintiff’s job was in jeopardy as a result of Plaintiff’s alleged unwillingness to support business decisions or his alleged negative attitude. (See Musselman’s Dep. at 152:12-17.) In addition, Plaintiff offers his final performance evaluation—the 1996 Genlyte OMG Review—in which Musselman rated Plaintiff’s performance at “89%” out of a possible “100%.” (See Pl.’s Resp., Ex. 7.) The performance evaluation does not state that Plaintiff showed an unwillingness to support business decisions or exhibited a negative attitude. (See id.) Furthermore, Musselman states that Plaintiff’s performance was always average or above average. (See Musselman’s Dep. at 45:20-46:3.) Plaintiff contends that this evidence successfully rebuts Defendant Genlyte’s stated reason for terminating Plaintiff’s employment.

¹Defendant Genlyte also moves for summary judgment on grounds that Plaintiff fails to state a prima facie case of age discrimination regarding Defendant Genlyte’s failure to transfer Plaintiff to another position. Plaintiff responds that Defendant Genlyte’s failure to transfer Plaintiff is not an additional count in the Complaint. Rather, it is further evidence that Defendant Genlyte terminated Plaintiff because of his age. Thus, to the extent that Plaintiff’s age discrimination claim is premised on his termination, rather than Defendant Genlyte’s failure to transfer him, Defendant Genlyte’s second ground for summary judgment will not be considered at this time.

There is a genuine issue of fact as to whether Defendant Genlyte terminated Plaintiff because of his age. Although Defendant Genlyte argues that Plaintiff was terminated for his unwillingness to support business decisions and his negative attitude, Plaintiff has presented evidence that demonstrates weaknesses and inconsistencies in Defendant Genlyte's proffered reasons. On summary judgment, viewing the evidence in a light most favorable to Plaintiff, I conclude that a reasonable jury could find that the reasons offered by Defendant Genlyte for terminating Plaintiff's employment were not its true reasons but, rather, a pretext for age discrimination. Thus, Plaintiff has met his burden of rebutting Defendant Genlyte's proffered reason for terminating Plaintiff's employment, and Defendant Genlyte's Motion for Summary Judgment will be denied.

An appropriate Order follows.

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	:	
HADCO CORPORATION AND GENLYTE	:	
THOMAS GROUP LLC AS SUCCESSOR-	:	
IN-INTEREST TO THE GENLYTE GROUP,	:	
INCORPORATED,	:	
Defendants.	:	

ORDER

AND NOW, this day of February, 2001, upon consideration of
Defendant Genlyte's Motion for Summary Judgment, **IT IS HEREBY ORDERED** that
Defendants's motion is **DENIED**.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.